IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 13605 of 2004

Between:

1 Nakkidapu Siva Prasad, S/o Pydi Raju,
2 Gundubariki Laxmana, S/o Sanyasi,
3 Gundubariki Venkatramana, S/o Sanyasi,
4 Dadala Krishna, S/o Appa Rao,
5 Vangalapudi Satyarao, S/o Simhadri,
6 Nimmakayala Nakshatram, W/o Polaiah,
7 Gondela Sanyasi, S/o Pydaiah,
8 Gondela Yerribabu, S/o Sanyasi,
9 Indugubilli Venkat Ramana, S/o Bangaraiah,
10 Gummadi Apparao, S/o Venkata Somulu,
11 Kinthada Srinu, S/o Mallaiah, Visakhaptnam Rural, Visakhapatnam

District.

..... PETITIONERS

AND

1 The Revenue Divisional Officer, Visakhapatnam, Visakhapatnam

District.
2 The District Panchayat Officer, Visakhapatnam, Visakhapatnam

District.
3 The State Election Commission, rep. by its Secretary (Legal),
3rd Floor, Buddha Bhavan, M.G. Road, Secunderabad - 500 003.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or Direction, more particularly one in the nature of Writ of Certiorari, to declare the action of the 3rd respondent commission in rejecting the claim of the petitioners or inclusion of their names in the voters list of Adivivaram Gram Panchayat vide Lr.No. 875/SEC-B2/2004 dt. 31-7-2004 before conduct of elections to the casual vacancies of Sarpanch and a Ward Member of Adivivaram Gram Panchayat, Visakhapatnam, as illegal, arbitrary and contrary to the Constitutional provisions and consequently direct the 3rd respondent commission to direct the 1st and 2nd respondent to take steps for inclusion of the names of the petitioners in the Voters List before conduct of the elections pursuant to the notice dt. 23-7-2004 issued by the Election Officer, Adivivaram Gram Panchayat duly setting aside the Lr.No. 875/SEC-B2/2004 dt. 31-7-2004.

Counsel for the Petitioners: MR.K.RAM REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

ORDER:

The petitioners are residents Adivivaram village in Visakhapatnam District. They allege that in the voters list of 1999, their names were included. However, during the elections to the Legislative Assembly in 2004, their names were missing in the voters list. On their behalf, representations were made to the respondents 1 and 2 herein on 16.06.2004 and 21.06.2004 for inclusion of the petitioners' names in the voters list. In the meanwhile, the elections for the casual vacancies of sarpanch and a ward member were notified on 23.07.2004. Having come to know this, the petitioners moved the State Election Commission purportedly under Article 243-K of the Constitution of India praying for inclusion of their names in voters list. Their requests were turned down by impugned order dated 31.07.2004 observing that when once the elections are notified, the State Election Commission cannot interfere in the matter. Hence, the writ petition is filed assailing the order of the State Election Commission and for a consequential prayer directing the third respondent to direct other respondents to take steps for the inclusion of the names of the petitioners in the voters list before conduct of the elections.

As per section 11 of the A.P.Panchayat Raj Act, 1994 (for short, the Act) and A. P. Panchayat Raj (Preparation and Publication of Electoral Rolls) Rules, 2000,

(for short, the Rules), if there are any errors in the assembly electoral rolls, which is basis for Panchayat elections, the aggrieved person has to file application before the electoral registration officer for inclusions or deletions. After considering the same, when once the voters list is finalised, the same shall be treated as final for the purpose of elections and there cannot be any inclusion or deletion in such voters list, after publication of the election notification. No authority, much less, the State Election Commission can interfere under Article
243-K of the Constitution of India. If the petitioners have any grievance with the voters list for elections to casual vacancies of Sarpanch and ward member and it suffers from violation of the Act and the Rules, it is always open to the petitioners to challenge the electoral rolls before a duly constituted Election Tribunal under Section 233 of the Act**.** In that view of the matter, I do not see any infirmity or illegality in the order passed by the third respondent.

The writ petition is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

03.08.2004.

pln

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Revenue Divisional Officer, Visakhapatnam, Visakhapatnam District.
2. The District Panchayat Officer, Visakhapatnam, Visakhapatnam District.

3. The Secretary (Legal), State Election Commission, 3rd Floor, Buddha Bhavan, M.G.Road, Secunderabad.

4. 2 CCs to G P for Revenue, High Court of A.P., Hyderabad. (OUT)

5. 2 CD copies.